IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Second Appeal Nos. 107/2006 and 108/2006

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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Mr. J. T. Gilda, Adv. for the appellants.
Mr. N.R. Borkar, Advocate for respondent.

CORAM : A.P. Lavande, J.
Dated : October 7 , 2006

P.C.

Heard learned counsel appearing for the parties.

These two appeals have been preferred by the appellants against common judgment and order dated 16th September, 2005 passed by Additional District Judge, Achalpur dismissing Misc. Civil Application Nos. 5/2004 and 6/2004.

The Deputy Charity Commissioner in Inquiry Case No.10/1999 in the course of settling scheme under Section 50-A (1) of Bombay Public Trusts Act (hereinafter referred to as “the Act”) directed the present respondent to conduct a meeting for the purpose of election within a period of

two months vide order dated 20.6.2001. The appellant no.2 Ashok Rohi issued notice to convene meeting on 12.7.2001 for filling up vacancy of the office bearers and after purporting to hold election filed change report which was accepted on 1.9.2001 in Inquiry case No.608/2001. The respondent filed appeal challenging the said order before the Joint Charity Commissioner. The respondent had issued notice dated 8.8.2001 to convene a meeting on 17.8.2001 and elected the office bearers for the vacancy and submitted change report on 18.9.2001. Thereafter an application was moved for rejection of the said report on the ground that the order dated 20.6.2001 has been complied with by the report in Inquiry Case No.608/2001. The change report was rejected by the Deputy Charity Commissioner in view of the change report already submitted in Inquiry Case No. 608/2001. Against the said order present respondent filed an appeal bearing No. 34/2002 challenging rejection of the said

order passed by the Deputy Charity Commissioner. The Joint Charity Commissioner by order dated 9.12.2003 held that the Deputy Charity Commissioner erred in accepting the change report inasmuch as the present appellant no.2 was not authorised to conduct the meeting until 20.8.2001. As against the orders passed by Joint Charity Commissioner, the appellants filed Misc. Civil Application Nos. 5 and 6 of 2004 which were heard by Additional District Judge, Achalpur and dismissed by common judgment and order dated 16.9.2005. Mr. Gilda, learned counsel appearing for the appellants submitted that the appellant no.2 was entitled to convene the meeting for the purpose of election in terms of order dated 20.6.2001 passed by Deputy Charity Commissioner while settling the scheme and the respondent had no authority to convene the meeting and hold election pursuant to the said order. He, therefore, submitted that the findings given by the Joint Charity Commissioner as well

as by the Additional District Judge are perverse and, therefore, interference is called for in this appeal.

Per contra, Mr. Borkar, learned counsel appearing for the respondent submitted that the Joint charity Commissioner and Additional District Judge were perfectly justified in holding that the meeting convened and the election held by respondent no.2 was in compliance with the order dated 20.6.2001 and, therefore, no interference is called for in these appeals.

Having perused the orders passed by all the authorities below and having considered submissions made by learned counsel appearing for the parties, I am unable to accept the submission of Mr. Gilda that appellant no.2 was entitled to conduct the meeting to hold election. In terms of order dated 20.6.2001 the respondent had been given time of two months to convene the meeting and admittedly the meeting was convened on 17.8.2001. Therefore, the findings given by

two authorities below in favour of the respondent cannot be faulted. These are concurrent findings of fact arrived at after proper appreciation of the material on record and therefore, no interference is called for. In any event, no substantial question of law is involved in these appeals. Hence, the appeals are rejected.

JUDGE

A.